101-615

HAZARDOUS MATERIALS TRANSPORTATION UNIFORM SAFETY ACT OF 1990

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Public Law 101-615
101st Congress

An Act

Nov. 16, 1990
[S. 2506]

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Hazardous Materials Transportation Uniform Safety Act of 1990.
49 USC app. 1801 note.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Materials Transportation Uniform Safety Act of 1990".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hazardous Materials Transportation Act.

(c) TABLE OF CONTENTS.—

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SEC. 2. FINDINGS.

The Congress finds that—

(1) the Department of Transportation estimates that approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day;

(2) accidents involving the release of hazardous materials are a serious threat to public health and safety,

(3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable,

(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required,

(7) the Office of Technology Assessment has estimated that approximately 1,500,000 emergency response personnel need better basic or advanced training for responding to the unintentional release of hazardous materials at fixed facilities and in transportation, and

(8) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—Section 103 (49 U.S.C. App. 1802) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) COMMERCE.—The term 'commerce' means trade, traffic, commerce, or transportation within the jurisdiction of the United States (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

"(3) DIRECTOR.—The term 'Director' means the Director of the Federal Emergency Management Agency.

"(4) HAZARDOUS MATERIAL.—The term 'hazardous material' means a substance or material designated by the Secretary under section 104.

"(5) HAZMAT EMPLOYEE.—The term 'hazmat employee' means an individual who is employed by a hazmat employer and who in the course of the individual's employment directly affects hazardous materials transportation safety as determined by the Secretary by regulation. Such term includes an owner-operator of a motor vehicle which transports in commerce hazardous

materials. Such term includes, at a minimum, an individual who is employed by a hazmat employer and who in the course of the individual's employment—

"(A) loads, unloads, or handles hazardous materials;

"(B) reconditions or tests containers, drums, and packages represented for use in the transportation of hazardous materials;

"(C) prepares hazardous materials for transportation;

"(D) is responsible for the safety of the transportation of hazardous materials; or

"(E) operates a vehicle used to transport hazardous materials.

"(6) HAZMAT EMPLOYER.—The term 'hazmat employer' means a person—

"(A)(i) who transports in commerce hazardous materials,

"(ii) who causes to be transported or shipped in commerce hazardous materials, or

"(iii) who reconditions or tests containers, drums, and packages represented for use in the transportation of hazardous materials; and

"(B) who utilizes 1 or more of its employees in connection with such activity.

Such term includes an owner-operator of a motor vehicle which transports in commerce hazardous materials. Such term includes any department, agency, or instrumentality of the United States, a State, a political subdivision of a State, or an Indian tribe engaged in an activity described in subparagraph (A)(i), (A)(ii), or (A)(iii).

"(7) IMMINENT HAZARD.—The term 'imminent hazard' means the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion of an administrative hearing or other formal proceeding initiated to abate the risks of those effects.

"(8) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given that term under section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b).

"(9) MOTOR CARRIER.—The term 'motor carrier' means a motor common carrier, motor contract carrier, motor private carrier, and freight forwarder as those terms are defined in section 10102 of title 49, United States Code.

"(10) NATIONAL RESPONSE TEAM.—The term 'National Response Team' means the national response team established pursuant to the National Contingency Plan as established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(11) PERSON.—The term 'person' means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise, but such term does not include (A) the United States Postal Service, or (B) for the purposes of sections 110 and 111 of

this title, any agency or instrumentality of the Federal Government.

"(12) PUBLIC SECTOR EMPLOYEE.—The term 'public sector employee' means an individual who is employed by a State or a political subdivision thereof or an Indian tribe and who in the course of the individual's employment has responsibilities relating to responding to accidents and incidents involving the transportation of hazardous materials. Such term includes, at a minimum, a person employed by a State or political subdivision thereof or an Indian tribe as a firefighter or law enforcement officer. Such term also includes a person who volunteers to serve as a firefighter for a State or political subdivision thereof or an Indian tribe.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Transportation or the Secretary's delegate.

"(14) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or any other territory or possession of the United States designated by the Secretary; except that as used in section 121, relating to uniformity of State registration and permitting forms and procedures, such term means a State of the United States and the District of Columbia.

"(15) TRANSPORTS OR TRANSPORTATION.—The term 'transports' or 'transportation' means any movement of property by any mode, and any loading, unloading, or storage incidental thereto.

"(16) UNITED STATES.—The term 'United States' means all of the States.".

(b) CONFORMING AMENDMENT.—Section 111(b) (49 U.S.C. App. 1810(b)) is amended by striking the second sentence.

SEC. 4. FEDERAL REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS.

Section 105 (49 U.S.C. App. 1804) is amended to read as follows:

"SEC. 105. REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS.

"(a) GENERAL.—

"(1) ISSUANCE.—The Secretary shall issue regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. The regulations issued under this section shall govern any aspect of hazardous materials transportation safety which the Secretary deems necessary or appropriate.

"(2) PROCEDURES.—Regulations issued under paragraph (1) shall be issued in accordance with section 553 of title 5, United States Code, including an opportunity for informal oral presentation.

"(3) APPLICABILITY.—Regulations issued under paragraph (1) shall be applicable to any person who transports, ships, causes to be transported or shipped, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation in commerce of hazardous materials.

"(4) PREEMPTION.—

"(A) GENERAL RULE.—Except as provided in subsection (b) and unless otherwise authorized by Federal law, any law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or an Indian tribe, which concerns a subject listed in subparagraph (B) and which is not substantively the same as any provision of this Act or any regulation under such provision which concerns such subject, is preempted.

"(B) COVERED SUBJECTS.—The subjects referred to in subparagraph (A) are the following:

"(i) The designation, description, and classification of hazardous materials.

"(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials.

"(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents.

"(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials.

"(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

State governments. Indians.

"(C) LIMITATION ON FINES AND PENALTIES.—If a State or political subdivision or Indian tribe assesses any fine or penalty determined by the Secretary to be appropriate for a violation concerning a subject listed in subparagraph (B), no additional fine or penalty may be assessed for such violation by any other authority.

"(5) STATE LAWS WHICH ARE SUBSTANTIVELY THE SAME AS FEDERAL LAW.—

Indians.

"(A) CONTINUATION.—If the Secretary issues under this section before, on, or after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, a regulation, rule, or standard concerning any subject set forth in paragraph (4), a State, political subdivision of a State, or Indian tribe may only establish, maintain, and enforce a law, regulation, rule, standard, or order concerning such subject which is substantively the same as any provision of this Act or any regulation, rule, or order issued under such provision.

Federal Register, publication.

"(B) EFFECTIVE DATE OF FEDERAL PREEMPTION.—The Secretary shall determine and publish in the Federal Register the effective date of paragraph (1) with respect to any regulation, rule, or standard described in subparagraph (A) and which is issued after such date of enactment by the Secretary; except that such effective date may not be earlier than the 90th day following the date of such issuance and may not be later than the last day of the 2-year period beginning on the date of such issuance.

"(b) HIGHWAY ROUTING.—

State governments. Indians.

"(1) STATE AUTHORITY.—Subject to paragraphs (4) and (5), each State and Indian tribe may establish, maintain, and enforce (A) specific highway routes over which hazardous materials may

and may not be transported by motor vehicles in the area which is subject to the jurisdiction of such State or Indian tribe, and (B) limitations and requirements with respect to highway routing.

"(2) ISSUANCE OF FEDERAL STANDARDS.—Not later than 18 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary, in consultation with the States, shall establish by regulation standards for States and Indian tribes to use in establishing, maintaining, and enforcing (A) specific highway routes over which hazardous materials may and may not be transported by motor vehicles, and (B) limitations and requirements with respect to highway routing. Regulations.

"(3) CONTENTS OF STANDARDS.—The Federal standards established pursuant to paragraph (2) shall include the following:

"(A) ENHANCEMENT OF PUBLIC SAFETY.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall enhance public safety (i) in the area subject to the jurisdiction of the State or Indian tribe, and (ii) in areas of the United States not subject to such jurisdiction which are directly affected by such designations, limitations, and requirements.

"(B) PUBLIC PARTICIPATION.—Minimum procedural requirements for ensuring public participation in the establishment by a State or Indian tribe of highway routing designations, limitations, and requirements.

"(C) CONSULTATION WITH OTHER GOVERNMENTS.—A requirement that, in establishing highway routing designations, limitations, and requirements, the State or Indian tribe shall consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of the establishing State or Indian tribe and affected industries.

"(D) THROUGH ROUTING.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall assure through highway routing for the transportation of hazardous materials between adjacent areas.

"(E) AGREEMENT OF OTHER STATES; BURDEN ON COMMERCE.—A requirement that a highway routing designation, limitation, or requirement which affects the transportation of hazardous materials in another State or Indian tribe may only be established, maintained, and enforced by a State or Indian tribe if (i) it is agreed to by the other State or Indian tribe within a reasonable period or has been approved by the Secretary under paragraph (5), and (ii) does not unreasonably burden commerce.

"(F) TIMELINESS.—A requirement that the establishment of highway routing designations, limitations, and requirements by a State or Indian tribe shall be completed in a timely manner.

"(G) REASONABLE ROUTES TO TERMINALS.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall provide reasonable routes for motor ve- Motor vehicles.

hicles transporting hazardous materials to reach terminals, facilities for food, fuel, repairs, and rest, and points for the loading and unloading of hazardous materials.

"(H) STATE RESPONSIBILITY FOR LOCAL COMPLIANCE.—A requirement that the State shall be responsible (i) for ensuring that political subdivisions of the State comply with the Federal standards in establishing, maintaining, and enforcing highway routing designations, limitations, and requirements, and (ii) for resolving disputes between or among such political subdivisions.

"(I) FACTORS TO CONSIDER.—A requirement that, in establishing, maintaining, and enforcing highway routing designations, limitations, and requirements, a State or Indian tribe consider—

"(i) population density,

"(ii) type of highways,

"(iii) type and quantities of hazardous materials,

"(iv) emergency response capabilities,

"(v) results of consultations with affected persons,

"(vi) exposure and other risk factors,

"(vii) terrain considerations,

"(viii) continuity of routes,

"(ix) alternative routes,

"(x) effects on commerce,

"(xi) delays in transportation, and

"(xii) such other factors as the Secretary considers appropriate

"(4) PREEMPTION.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, after the last day of the 2-year period beginning on the date of the issuance of the regulations establishing the Federal standards pursuant to paragraph (2), no State or Indian tribe may establish, maintain, or enforce—

"(i) any highway route designation over which hazardous materials may or may not be transported by motor vehicles, or

"(ii) any limitation or requirement with respect to such routing,

unless such designation, limitation, or requirement is made in accordance with the procedural requirements of the Federal standards and complies with the substantive requirements of the Federal standards.

"(B) GRANDFATHER CLAUSE.—Designations, limitations, and requirements established before the date of issuance referred to in subparagraph (A) do not have to be in accordance with procedural requirements of the Federal standards established pursuant to paragraphs (3)(B), (3)(C), and (3)(F).

"(C) LIMITATION WITH RESPECT TO CONSIDERATION OF FACTORS.—Nothing in this subsection shall be construed as requiring a State or Indian tribe to comply with paragraph (3)(I) with respect to designations, limitations, and requirements established before the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990.

"(D) CONTINUATION OF EFFECTIVENESS DURING DISPUTE RESOLUTION.—The Secretary may permit a highway route designation or limitation or requirement of a State or Indian tribe to continue in effect pending the resolution of a dispute under paragraph (5) relating to such designation, limitation, or requirement.

"(5) DISPUTE RESOLUTION.—

"(A) PETITION OF SECRETARY.—If a dispute over a matter relating to through highway routing or a dispute relating to agreement with a proposed highway route designation, limitation, or requirement arises between or among States, political subdivisions of different States, or Indian tribes, 1 or more of such States or Indian tribes may petition the Secretary to resolve the dispute.

"(B) PROCEDURE.—The Secretary shall, within 18 months of the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, issue regulations for resolving disputes under this paragraph. Regulations.

"(C) TIME PERIOD.—The Secretary shall resolve a dispute under this paragraph within 1 year after the date the Secretary receives the petition for resolution of such dispute.

"(D) STANDARD.—Resolution of a dispute under this paragraph shall provide the greatest level of highway safety without unreasonably burdening commerce and shall ensure compliance with the Federal standards established pursuant to paragraph (2).

"(E) LIMITATION ON JUDICIAL REVIEW.—After a petition is filed under this paragraph to resolve a dispute, no court action may be brought with respect to the subject matter of such dispute until a final decision of the Secretary is issued under this paragraph or the last day of the 1-year period beginning on the day the Secretary receives such petition, whichever occurs first.

"(F) JUDICIAL REVIEW.—Any State or Indian tribe which is adversely affected by a decision of the Secretary under this paragraph may, at any time before the 90th day following the date such decision becomes final, bring an action for judicial review in an appropriate district court of the United States.

"(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection and the regulations issued under this subsection shall be construed as superseding or otherwise affecting application of section 127 of title 23, United States Code, relating to vehicle weight limitations, or section 411 or 416 of the Surface Transportation Assistance Act of 1982, relating to vehicle length and vehicle width limitations, respectively.

"(7) LIMITATION ON APPLICABILITY.—

"(A) PLACARDED MOTOR VEHICLES.—Subject to subparagraph (B), this subsection only applies to a motor vehicle if the vehicle is transporting in commerce a hazardous material for which placarding of the vehicle is required in accordance with the regulations issued under this title.

"(B) AUTHORITY TO EXTEND APPLICABILITY.—The Secretary may, by regulation, extend application of this subsection or any Federal standard established pursuant to paragraph (2)— Motor vehicles.

"(i) to any use of a vehicle described in subparagraph (A) to provide transportation in commerce of any hazardous material; and

"(ii) to any motor vehicle used to transport in commerce hazardous materials.

Motor vehicles

"(8) EXISTING REGULATIONS RELATING TO RADIOACTIVE MATERIALS.—Nothing in this subsection shall be construed to require the Secretary to amend, modify, or reissue regulations issued by the Department of Transportation before the date of the enactment of this paragraph and in effect on such date with respect to highway route designations over which radioactive materials may and may not be transported by motor vehicles and limitations and requirements with respect to such routing.

"(9) LIMITATION ON AUTHORITY OF SECRETARY.—The Secretary may not assign any specific weight to be given by the States and Indian tribes in considering factors pursuant to paragraph (3)(I).

"(c) LIST OF ROUTE DESIGNATIONS.—The Secretary, in coordination with the States, shall periodically update and publish a list of currently effective hazardous materials highway route designations.

"(d) INTERNATIONAL UNIFORMITY.—

Foreign trade

"(1) DOT PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary shall participate in international forums that establish or recommend mandatory standards and requirements for the transportation of hazardous materials in international commerce.

Regulations

"(2) CONSULTATION.—The Secretary may consult with interested agencies to assure that, to the extent practicable, regulations issued by the Secretary pursuant to this section shall be consistent with standards adopted by international bodies applicable to the transportation of hazardous materials. Nothing in this subsection shall require the Secretary to issue a standard identical to a standard adopted by an international body, if the Secretary determines the standard to be unnecessary or unsafe, nor shall the Secretary be prohibited from establishing safety requirements that are more stringent than those included in a standard adopted by an international body, if the Secretary determines that such requirements are necessary in the public interest.".

SEC. 5. REPRESENTATION AND TAMPERING.

Section 105 (4 U.S.C. App. 1804), as amended by section 4, is amended by adding at the end the following new subsections:

"(e) UNLAWFUL REPRESENTATION.—No person shall, by marking or otherwise, represent that—

"(1) a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this title unless it meets the requirements of all applicable regulations issued under this title; or

"(2) a hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel, if the hazardous material is not present.

"(f) UNLAWFUL TAMPERING.—No person shall unlawfully alter, remove, deface, destroy, or otherwise tamper with—

"(1) any marking, label, placard, or description on a document required by this title or a regulation issued under this title; or

"(2) any package, container, motor vehicle, rail freight car, aircraft, or vessel used for the transportation of hazardous materials.

SEC. 6. DISCLOSURE.

Section 105 (49 U.S.C. App. 1804), as amended by section 5, is amended by adding at the end the following new subsection:

"(g) DISCLOSURE.—

Motor carriers.

"(1) MAINTENANCE OF SHIPPING PAPER.—Each person who offers for transportation in commerce a hazardous material that is subject to the shipping paper requirements of the Secretary shall provide the carrier who is providing such transportation any shipping paper that makes the disclosure established by the Secretary under paragraph (2) for the carrier to maintain on the vehicle to be used to provide such transportation. If the person offering such material for transportation is also a private motor carrier, such person shall maintain such shipping paper on the vehicle.

"(2) CONSIDERATIONS AND CONTENTS.—In carrying out paragraph (1), the Secretary shall consider and may require the following:

"(A) a description of the hazardous material, including the proper shipping name of the material,

"(B) the hazard class of the hazardous material,

"(C) the identification number (UN/NA) of the material,

"(D) immediate first action emergency response information or a means for appropriate reference to such information which must be immediately available, and

"(E) a telephone number for the purpose of obtaining more specific handling and mitigation information concerning the hazardous material at any time during its transportation.

"(3) SPECIFICATION OF LOCATION.—The shipping paper referred to in paragraph (1) shall be kept in a location, to be specified by the Secretary, in the motor vehicle, train, vessel, aircraft, or facility until the hazardous material is no longer in transportation or the documents have been made available to a representative of a Federal, State, or local government agency responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

"(4) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—Any person who transports a hazardous material in commerce shall, in the event of an incident involving such material, immediately disclose to appropriate emergency response authorities, upon their request, information on the hazardous material being transported.".

SEC. 7. HANDLING OF HAZARDOUS MATERIALS.

Section 106 (49 U.S.C. App. 1805) is amended—

(1) by redesignating subsections (b) and (c), and any reference thereto, as subsections (c) and (f), respectively;

(2) in subsection (c), as so redesignated, by striking "(b)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.—

Manpower training programs.

Regulations

"(1) FEDERAL REQUIREMENTS.—Within 18 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary shall issue, by regulation, requirements for training to be given by all hazmat employers to their hazmat employees regarding the safe loading, unloading, handling, storing, and transporting of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials.

"(2) DIFFERENT TRAINING REQUIREMENTS.—The regulations issued under paragraph (1) may provide for different training for different classes or categories of hazardous materials and hazmat employees.

"(3) COORDINATION OF EMERGENCY RESPONSE TRAINING REGULATIONS.—In consultation with the Administrator and the Secretary of Labor, the Secretary shall take such actions as may be necessary to ensure that the training requirements established under this subsection do not conflict with the requirements of the regulations issued by the Occupational Safety and Health Administration of the Department of Labor relating to hazardous waste operations and emergency response contained in part 1910 of title 29 of the Code of Federal Regulations (and amendments thereto) and the regulations issued by the Environmental Protection Agency relating to worker protection standards for hazardous waste operations contained in part 311 of title 40 of such Code (and amendments thereto). For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), no action taken by the Secretary pursuant to this section shall be deemed to be an exercise of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

Regulations. Occupational safety and health

"(4) COMMENCEMENT OF TRAINING.—Within 6 months after the date on which the Secretary issues regulations under this subsection, each hazmat employer shall have commenced training of its hazmat employees in accordance with the requirements established by such regulations.

"(5) COMPLETION OF TRAINING.—Regulations issued under this subsection shall establish the date by which training of hazmat employees shall be completed in order to comply with requirements established by such regulations. Such date shall be within a reasonable period of time after (A) 6 months following the date of the issuance of such regulations, or (B) in the case of an individual employed as a hazmat employee after such 6-month period, the date on which the individual is to begin carrying out a duty of a hazmat employee.

"(6) CERTIFICATION.—After completion of training of its hazmat employees in accordance with the requirements established under this subsection, each hazmat employer shall certify, with such appropriate documentation as may be required by regulation by the Secretary, that the employer's hazmat employees have received training and have been tested on appropriate transportation areas of responsibility, including one or more of the following areas:

"(A) Recognition and understanding of the Department of Transportation hazardous materials classification system.

"(B) Use and limitations of the Department of Transportation hazardous materials placarding, labeling, and marking systems.

"(C) General handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transportation of hazardous materials.

"(D) Health, safety, and risk factors associated with hazardous materials and their transportation.

"(E) Appropriate emergency response and communication procedures for dealing with accidents and incidents involving hazardous materials transportation.

"(F) Use of the Department of Transportation Emergency Response Guidebook and recognition of its limitations or use of equivalent documents and recognition of the limitations of such documents.

"(G) Applicable hazardous materials transportation regulations.

"(H) Personal protection techniques.

"(I) Preparation of shipping documents for transportation of hazardous materials.

"(7) APPLICABILITY OF INFORMATION MANAGEMENT REQUIREMENTS.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to activities of the Secretary under this subsection.".

SEC. 8. HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION; MOTOR CARRIER SAFETY PERMITS.

Section 106 (49 U.S.C. App. 1805), as amended by section 7, is amended by inserting after subsection (b) the following new subsections:

"(c) REGISTRATION.—

"(1) MANDATORY FILINGS.—Each person who carries out one or more of the following activities shall file with the Secretary a registration statement in accordance with the provisions of this subsection:

"(A) Transporting or causing to be transported or shipped in commerce highway-route controlled quantities of radioactive materials, more than 25 kilograms of class A or class B explosives in a motor vehicle, rail car, or transport container, or more than 1 liter per package of a hazardous material which has been designated by the Secretary as extremely toxic by inhalation.

"(B) Transporting or causing to be transported or shipped in commerce a hazardous material in a bulk package, container, or tank as defined by the Secretary if the package, container, or tank has a capacity of 3,500 or more gallons or more than 468 cubic feet.

"(C) Transporting or causing to be transported or shipped in commerce a shipment of 5,000 pounds or more of a class of a hazardous material for which placarding of a vehicle, rail car, or freight container is required in accordance with the regulations issued under this title.

"(2) COOPERATION OF EPA.—The Administrator shall assist the Secretary in carrying out this subsection by furnishing the Secretary with such information as the Secretary may request in order to carry out the objectives of this section.

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"(3) DISCRETIONARY FILINGS.—The Secretary may require each person who carries out one or more of the following activities to file a registration statement with the Secretary in accordance with the provisions of this subsection:

"(A) Transporting or causing to be transported or shipped in commerce hazardous materials and who is not required to file a registration statement under paragraph (1).

"(B) Manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing packages or containers which are represented, marked, certified, or sold by such person for use in the transportation in commerce of hazardous materials designated by the Secretary.

"(4) REQUIREMENT.—No person required to file a registration statement by or under this subsection may transport or cause to be transported or shipped hazardous materials, or manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers for use in the transportation of hazardous materials, unless such person has on file a registration statement in accordance with this subsection.

"(5) FILING DEADLINES.—

"(A) INITIAL FILINGS.—Each person who is required to file a registration statement by or under this subsection shall file an initial registration statement by March 31, 1992. The Secretary may extend such date to September 30, 1992, with respect to the requirements of paragraph (1).

"(B) RENEWALS.—Subject to the provisions of this subsection, each person who is required to file a registration statement by or under this section shall renew such registration statement periodically in accordance with regulations issued by the Secretary, but no less frequently than every 5 years and no more frequently than annually.

"(6) AMENDMENTS.—The Secretary shall by regulation determine when and under what circumstances a registration statement filed under this subsection with the Secretary must be amended and the procedures to be followed in amending such statement.

"(7) CONTENTS.—A registration statement under this subsection shall be in such form and contain such information as the Secretary may require by regulation. The Secretary may utilize existing forms of the Department of Transportation and the Environmental Protection Agency in carrying out this subsection. At a minimum, such statement shall include—

"(A) the registrant's name and principal place of business;

"(B) a description of each activity the registrant carries out for which filing of a registration statement is required by or under this section; and

"(C) the State or States in which such person carries out each such activity.

"(8) LIMITATION ON NUMBER OF FILINGS.—A person who carries out more than one activity for which filing of a registration statement is required by or under this subsection only needs to file one registration statement in order to comply with this subsection.

"(9) STREAMLINED PROCESS.—The Secretary may take such action as may be necessary to streamline and simplify the registration process under this subsection and to minimize with

respect to a person who is required to file a registration statement under this subsection the number of applications, documents, and other information which such person is required to file with the Department of Transportation under this title and any other laws of the United States.

"(10) DISCLOSURE.—The Secretary shall make a registration statement filed under this subsection available for inspection by any person, for a fee to be established by the Secretary; except that nothing in this sentence shall be considered to require the release of any information described in section 552(f) of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(11) FEES.—The Secretary may establish, assess, and collect such fees from persons required to file registration statements by or under this subsection as may be necessary to cover the costs of the Department of Transportation in processing such registration statements.

"(12) PROOF OF REGISTRATION AND PAYMENT OF FEES.—The Secretary may issue regulations requiring a person required to file a registration statement by or under this subsection to maintain proof of the filing of such statement and the payment of any fees assessed under this subsection and section 117(h). Regulations

"(13) APPLICABILITY OF INFORMATION MANAGEMENT REQUIREMENTS.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to activities of the Secretary under this subsection.

"(14) NONAPPLICABILITY TO EMPLOYEES.—Notwithstanding any other provisions of this subsection, an employee of a hazmat employer is not required to file a registration statement by or under this section.

"(15) EXEMPTION OF GOVERNMENT AGENCIES AND EMPLOYEES.—Agencies of the Federal Government, agencies of States, and agencies of political subdivisions of States, and employees of such agencies with respect to their official duties do not have to file registration statements under this subsection.

"(d) MOTOR CARRIER SAFETY PERMITS.—

"(1) REQUIREMENT.—Except as provided in this subsection, a motor carrier may transport or cause to be transported by motor vehicle in commerce a hazardous material only if the motor carrier holds a safety permit issued by the Secretary under this section authorizing the transportation and keeps a copy of such permit, or other proof establishing the existence of such permit, in the motor vehicle used to provide such transportation.

"(2) ISSUANCE.—Except as provided in this subsection, the Secretary shall issue a safety permit to a motor carrier authorizing that carrier to transport or cause to be transported by motor vehicle in commerce a hazardous material if the Secretary finds that the carrier is fit, willing, and able—

"(A) to provide the transportation to be authorized by the permit;

"(B) to comply with this title and the regulations issued by the Secretary to carry out this title; and

"(C) to comply with any applicable Federal motor carrier safety laws and regulations and any applicable Federal minimum financial responsibility laws and regulations.

"(3) SHIPPER'S RESPONSIBILITY.—Each person who offers a hazardous material for motor vehicle transportation in commerce may offer that material to a motor carrier only if the carrier has a safety permit issued under this subsection authorizing such transportation.

"(4) AMENDMENT, SUSPENSION, AND REVOCATION.—A safety permit issued to a motor carrier under this subsection may, after notice and an opportunity for hearing, be amended, suspended, or revoked by the Secretary in accordance with procedures established under paragraph (6) whenever the Secretary determines that such carrier has failed to comply with a requirement of this title, any regulation issued under this title, any applicable Federal motor carrier safety law or regulation, or any applicable Federal minimum financial responsibility law or regulation. If the Secretary determines that an imminent hazard exists, the Secretary may amend, suspend, or revoke the safety permit before scheduling a hearing thereon.

Regulations

"(5) COVERED TRANSPORTATION.—The Secretary shall establish by regulation the hazardous materials and quantities thereof to which this subsection applies; except that this section shall apply, at a minimum, to all transportation by a motor carrier of a class A or B explosive, a liquefied natural gas, a hazardous material which has been designated by the Secretary as extremely toxic by inhalation, or a highway route controlled quantity of radioactive materials as defined by the Secretary.

Regulations

"(6) PROCEDURES.—The Secretary shall establish by regulation—

"(A) application procedures, including form, content, and fees necessary to recover the full costs of administering this subsection;

"(B) standards for determining the duration, terms, conditions, or limitations of a safety permit;

"(C) procedures for the amendment, suspension, or revocation of a safety permit issued under this section; and

"(D) any other procedures the Secretary deems appropriate to implement this subsection.

"(7) APPLICATION.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this subsection. The Secretary may approve any part of the application or deny the application. The application shall—

"(A) be under oath; and

"(B) contain such information as the Secretary may require by regulation.

"(8) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this subsection only if the carrier complies with such conditions as the Secretary finds are required to protect public safety."

Effective date. Regulations. 49 USC app. 1805 note.

(b) SAFETY PERMITS.—Section 106(d) of the Hazardous Materials Transportation Act, relating to motor carrier safety permits, shall take effect 2 years after the date of the enactment of this Act; except that the Secretary shall issue regulations necessary to carry out such section not later than 1 year after such date of enactment.

(c) REPEAL OF EXISTING PROGRAM.—Subsections (e) and (f) of section 106 of the Hazardous Materials Transportation Act (49 U.S.C. 1805), as redesignated by section 7 of this Act, are repealed effective March 31, 1992.

SEC. 9. EXEMPTIONS.

Section 107(a) (49 U.S.C. App. 1806(a)) is amended by striking "or renewal" in the fourth sentence.

SEC. 10. DEFINITION OF CERTAIN MATERIALS.

The second sentence of section 108(b) (49 U.S.C. App. 1807(b)) is amended to read as follows: "The term does not include any material which the Secretary determines is of such low order of radioactivity that when transported does not pose a significant hazard to health or safety.".

SEC. 11. SECRETARY'S POWERS.

Section 109(d)(1)(C) (49 U.S.C. App. 1808(d)(1)(C)) is amended by striking "recommend" and inserting "take".

SEC. 12. PENALTIES.

(a) CIVIL PENALTIES.—Section 110(a) (49 App. U.S.C. 1809(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(except an employee who acts without knowledge)" in the first sentence;

(B) by striking "title or of a" in the first sentence and inserting "title, an order, or";

(C) by inserting "order or" after "violation of any" in each of the second and third sentences; and

(D) by striking "$10,000" in each of the second and third sentences and inserting "$25,000 and not less than $250"; and

(2) by adding at the end the following:

"(3) ACTING KNOWINGLY.—For purposes of this section, a person shall be considered to have acted knowingly if—

"(A) such person has actual knowledge of the facts giving rise to the violation, or

"(B) a reasonable person acting in the circumstances and exercising due care would have such knowledge.".

(b) CRIMINAL PENALTIES.—Subsection (b) of section 110 (49 App. U.S.C. 1809) is amended to read as follows:

"(b) CRIMINAL.—A person who knowingly violates section 105(f) of this title or willfully violates a provision of this title or an order or regulation issued under this title shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.".

SEC. 13. RELATIONSHIP TO OTHER LAWS.

Section 112 (49 U.S.C. App. 1811) is amended to read as follows:

"SEC. 112. RELATIONSHIP TO OTHER LAWS.

State governments. Indians.

"(a) IN GENERAL.—Except as provided in subsection (d) and unless otherwise authorized by Federal law, any requirement of a State or political subdivision thereof or Indian tribe is preempted if—

"(1) compliance with both the State or political subdivision or Indian tribe requirement and any requirement of this title or of a regulation issued under this title is not possible,

"(2) the State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of this title or the regulations issued under this title, or

"(3) it is preempted under section 105(a)(4) or section 105(b).

"(b) FEES.—A State or political subdivision thereof or Indian tribe may not levy any fee in connection with the transportation of hazardous materials that is not equitable and not used for purposes related to the transportation of hazardous materials, including enforcement and the planning, development, and maintenance of a capability for emergency response.

"(c) DETERMINATION OF PREEMPTION.—

"(1) ADMINISTRATIVE DETERMINATION.—Any person, including a State or political subdivision thereof or Indian tribe, directly affected by any requirement of a State or political subdivision or Indian tribe, may apply to the Secretary, in accordance with regulations prescribed by the Secretary, for a determination of whether that requirement is preempted by section 105(a)(4) or 105(b) or subsection (a). The Secretary shall publish notice of the application in the Federal Register. Once the Secretary has published such notice, no applicant for such determination by the Secretary may seek relief with respect to the same or substantially the same issue in any court until the Secretary has taken final action on the application or until 180 days after filing of the application, whichever occurs first. The Secretary, in consultation with States, political subdivisions, and Indian tribes, shall issue regulations which set forth procedures for carrying out this paragraph.

Federal Register, publication.

Regulations.

"(2) JUDICIAL DETERMINATION.—Nothing in subsection (a) prohibits a State or political subdivision thereof or Indian tribe, or any other person directly affected by any requirement of a State or political subdivision thereof or Indian tribe, from seeking a determination of preemption in any court of competent jurisdiction in lieu of applying to the Secretary under paragraph (1).

"(d) WAIVER OF PREEMPTION.—Any State or political subdivision or Indian tribe may apply to the Secretary for a waiver of preemption with respect to any requirement that the State or political subdivision or Indian tribe acknowledges to be preempted by section 105(a)(4) or 105(b) or subsection (a). The Secretary, in accordance with procedures prescribed by regulation, may waive preemption with respect to such requirement upon a determination that such requirement—

"(1) affords an equal or greater level of protection to the public than is afforded by the requirements of this title or regulations issued under this title, and

"(2) does not unreasonably burden commerce.

"(e) JUDICIAL REVIEW.—A party to a proceeding under subsection (c) or (d) may seek review by the appropriate district court of the United States of a decision of the Secretary under such proceeding only by filing a petition with such court within 60 days after such decision becomes final.

"(f) OTHER FEDERAL LAWS.—This title shall not apply to pipelines which are subject to regulation under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), to pipelines which are subject to regulation under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001 et seq.), or to any matter which is subject to the Federal postal laws or regulations under this title or under title 18 or title 39 of the United States Code.".

SEC. 14. FUNDING.

Section 115 (49 U.S.C. App. 1812) is amended to read as follows:

"SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated for carrying out this title (other than sections 117 and 121) not to exceed $13,000,000 for fiscal year 1991, $16,000,000 for fiscal year 1992, and $18,000,000 for fiscal year 1993.

"(b) CREDITS.—The Secretary may credit to any appropriation to carry out this title funds received from States, Indian tribes, or other public authorities and private entities for expenses incurred by the Secretary in providing training to such States, public authorities, and private entities.".

SEC. 15. TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS. Nuclear energy.

Section 116 (49 U.S.C. App. 1813) is amended to read as follows:

"SEC. 116. TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS.

"(a) RAILROAD TRANSPORTATION STUDY.—The Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry and shippers of high-level radioactive waste and spent nuclear fuel, shall undertake a study comparing the safety of using trains operated exclusively for transporting high-level radioactive waste and spent nuclear fuel (hereinafter in this section referred to as 'dedicated trains') with the safety of using other methods of rail transportation for such purposes. The Secretary shall report the results of the study to Congress not later than one year after the date of enactment of this section. Reports.

"(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS.—Within 24 months after the date of enactment of this section, taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train. Regulations.

"(c) MODE AND ROUTE STUDY.—The Secretary shall, within 12 months after the date of enactment of this section, undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such study shall include notice and opportunity for public comment, and shall include assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, environmental impact factors, affect the overall public safety of such shipments.

"(d) INSPECTIONS OF VEHICLES TRANSPORTING HIGHWAY ROUTE CONTROLLED QUANTITY RADIOACTIVE MATERIALS.—

"(1) REQUIREMENT.—Not later than one year after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary shall require by regulation that, before each use of a motor vehicle to transport in commerce any highway route controlled quantity radioactive Regulations.

material, such vehicle shall be inspected and certified to be in compliance with this title and applicable Federal motor carrier safety laws and regulations.

"(2) USE OF FEDERAL AND STATE INSPECTORS.—The Secretary may require that inspections under this subsection be carried out by duly authorized inspectors of the United States or in accordance with appropriate State procedures.

"(3) SELF-CERTIFICATION.—The Secretary may permit a person who transports or causes to be transported or shipped any highway route controlled quantity radioactive material to inspect the motor vehicle to be used to provide such transportation and to certify that the motor vehicle is in compliance with this title. The inspector qualification requirements for individuals performing inspections of motor vehicles issued by the Secretary shall apply to individuals conducting inspections under this paragraph.".

49 USC app. 1813 note.

SEC. 16. INSPECTORS.

(a) IN GENERAL.—The Secretary of Transportation, in fiscal year 1991, shall employ and maintain thereafter an additional 30 hazardous materials safety inspectors above the number of safety inspectors authorized for fiscal year 1990, in the aggregate, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration. The Secretary shall take such action as may be necessary to assure that the activities of 10 such additional inspectors focus on promoting safety in the transportation of radioactive materials, as defined by the Secretary. Such activities shall include—

(1) the inspection at the point of origin of shipments of high-level radioactive waste or nuclear spent fuel, as those terms are defined in section 116 of the Hazardous Materials Transportation Act, as added by section 15 of this Act; and

(2) the inspection, to the maximum extent practicable, of shipments of radioactive materials that are not high-level radioactive waste or nuclear spent fuel.

Intergovernmental relations.

(b) COOPERATION.—In carrying out their duties, the 10 additional inspectors authorized by this section to focus on promoting safety in the transportation of radioactive materials shall, to the maximum extent possible, cooperate with safety inspectors of the Nuclear Regulatory Commission and appropriate State and local government officials.

(c) ALLOCATION OF INSPECTORS OF RADIOACTIVE MATERIALS.—Of the 10 additional inspectors authorized by subsection (a) to focus on promoting safety in the transportation of radioactive materials—

(1) not less than 1 shall be allocated to the Research and Special Programs Administration;

(2) not less than 3 shall be allocated to the Federal Railroad Administration;

(3) not less than 3 shall be allocated to the Federal Highway Administration; and

(4) the remainder shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(d) ALLOCATION OF OTHER SAFETY INSPECTORS.—The 20 additional inspectors authorized by subsection (a) not referred to in subsection (c) shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(e) DEFINITIONS.—As used in this section—

(1) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(2) SPENT NUCLEAR FUEL.—The term "spent nuclear fuel" has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

SEC. 17. PUBLIC SECTOR TRAINING AND PLANNING.

The Act (49 U.S.C. App. 1801-1813) is amended by adding at the end the following new section:

"SEC. 117A. PUBLIC SECTOR TRAINING AND PLANNING.

State governments. Grant programs. 49 USC app. 1815.

"(a) PLANNING GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants to States—

"(A) for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986, including determination of flow patterns of hazardous materials within a State and between a State and another State; and

"(B) for determining the need for regional hazardous materials emergency response teams.

"(2) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

"(3) FUNDING OF PLANNING BY LOCAL EMERGENCY PLANNING COMMITTEES.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State agrees to make available not less than 75 percent of the funds granted to the State under this subsection in the fiscal year to local emergency planning committees established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act of 1986 by the State emergency response commission. Such funds shall be made available to the local committees for developing emergency plans under such Act.

Indians.

"(b) TRAINING GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants to States and Indian tribes for training public sector employees to respond to accidents and incidents involving hazardous materials.

"(2) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State or Indian tribe under this subsection in a fiscal year unless the State or Indian tribe certifies that the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for training public sector employees to respond to accidents and incidents involving hazardous materials will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

"(3) FUNDING OF TRAINING BY POLITICAL SUBDIVISIONS.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State agrees to make available

at least 75 percent of the funds granted to the State under this subsection in the fiscal year for the purposes of training public sector employees employed or used by the political subdivisions.

Intergovernmental relations.

"(4) USE OF TRAINING COURSES.—The Secretary may only make a grant to a State or Indian tribe under this subsection in a fiscal year if the State or Indian tribe enters into an agreement with the Secretary to use in such fiscal year—

"(A) a course or courses developed or identified under subsection (g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this section;

for training public sector employees to respond to accidents and incidents involving hazardous materials.

"(5) USE OF TRAINING FUNDS.—Funds granted to a State or Indian tribe for training public sector employees under this subsection may be used to pay tuition costs of such employees for such training, travel expenses of such employees to and from the training facility, room and board of such employees while they are at the training facility, and travel expenses of persons who are to provide such training.

"(6) TRAINING BY OTHERS.—Funds granted to a State or Indian tribe for training public sector employees under this subsection—

"(A) may be used by the State or a political subdivision thereof or the Indian tribe to provide such training; or

"(B) may be used to enter into an agreement, approved by the Secretary, to authorize a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) to provide such training—

"(i) if the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of such training without prior notification; and

"(ii) if the State or Indian tribe conducts at least annually 1 on-site observation of such training.

"(7) ALLOCATION OF TRAINING FUNDS.—The Secretary shall allocate funds made available for grants under this subsection for a fiscal year among States and Indian tribes which are eligible to receive such grants in such fiscal year based upon the needs of such States and Indian tribes for emergency response training. In determining such needs, the Secretary shall consider the number of hazardous materials facilities in the State or on lands under the jurisdiction of the Indian tribe, the types and amounts of hazardous materials transported in the State or on such lands, whether or not the State or Indian tribe assesses and collects fees on the transportation of hazardous materials, whether or not such fees are used solely to carry out purposes related to the transportation of hazardous materials, and such other factors as the Secretary determines are appropriate to carry out the objectives of this subsection.

"(c) ADOPTION OF FEDERAL STANDARDS AND COMPLIANCE WITH EMERGENCY PLANNING REQUIREMENTS.—The Secretary may only make a grant to a State under this section in a fiscal year if the State certifies that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986, including compliance with such sections with respect to ac-

cidents and incidents involving the transportation of hazardous materials.

"(d) FEDERAL SHARE.—By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed 80 percent of the cost incurred by the State or Indian tribe in the fiscal year for carrying out the activities for which the grant is made. The funds of the State or Indian tribe which are required to be expended under subsections (a)(2) and (b)(2) shall not be considered to be part of the non-Federal share.

"(e) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary for such grant. Such applications shall be submitted at such times and contain such information as the Secretary may require by regulation to carry out the objectives of this subsection.

"(f) DELEGATION OF AUTHORITY.—For the purpose of minimizing administrative costs and for coordinating Federal grant programs for emergency response training and planning, the Secretary may delegate to the Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences of the Department of Health and Human Services one or more of the following functions:

"(1) Authority to receive applications for grants under this section.

"(2) Authority to review applications for technical compliance with this section.

"(3) Authority to review applications for the purpose of making recommendation on approval or disapproval of such applications.

"(4) Any other ministerial function associated with the grant programs under this section.

"(g) TRAINING CURRICULUM.—

"(1) CURRICULUM COMMITTEE.—Not later than 24 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary, in coordination with the Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, Secretary of Health and Human Services, and Director of the National Institute of Environmental Health Sciences and using the existing coordinating mechanisms of the National Response Team and, for radioactive materials, the Federal Radiological Preparedness Coordinating Committee, shall develop and update periodically a curriculum which consists of a list of courses necessary to train public sector emergency response and preparedness teams.

"(2) MANDATORY CURRICULUM RECOMMENDATIONS.—The curriculum to be developed under this subsection shall include—

"(A) a recommended course of study—

"(i) for training public sector employees to respond to accidents and incidents involving the transportation of hazardous materials,

"(ii) for planning such responses;

"(B) recommended basic courses and minimum numbers of hours of instruction necessary for public sector employees to be able—

"(i) to respond safely and efficiently to accidents and incidents involving the transportation of hazardous materials, and

"(ii) to plan for such responses; and

"(C) appropriate emergency response training and planning programs for public sector employees developed under other Federal grant programs, including those developed with grants made under section 126 of the Superfund Amendments and Reauthorization Act of 1986.

"(3) OPTIONAL CURRICULUM RECOMMENDATIONS.—The curriculum to be developed under this subsection may include recommendations concerning materials appropriate for use in the recommended courses described in paragraph (2)(B).

"(4) COMPLIANCE WITH OSHA AND EPA REGULATIONS AND NFPA STANDARDS.—The recommended courses described in paragraph (2)(B) shall provide such training to public sector employees as may be necessary to comply—

"(A) with the regulations issued by the Occupational Safety and Health Administration of the Department of Labor relating to hazardous waste operations and emergency response contained in part 1910 of title 29 of the Code of Federal Regulations, and any amendments thereto;

"(B) with the regulations issued by the Environmental Protection Agency relating to worker protection standards for hazardous waste operations contained in part 311 of title 40 of the Code of Federal Regulations, and any amendments thereto; and

"(C) with standards issued by the National Fire Protection Association, relating to emergency response training, including standards 471 and 472.

"(5) CONSULTATION REQUIREMENT.—In developing the curriculum under this subsection, the Secretary shall consult the regional response teams established pursuant to the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, representatives of commissions established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) who provide training for responding to accidents and incidents involving the transportation of hazardous materials, and representatives of persons who respond to such accidents and incidents.

"(6) DISSEMINATION.—The Director, in conjunction with the National Response Team, shall disseminate the curriculum developed under this section and any amendments thereto to the regional response teams established pursuant to the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to all committees and commissions established pursuant to section 301 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001).

"(7) MONITORING AND TECHNICAL ASSISTANCE.—

"(A) MONITORING.—The Director, in coordination with the Secretary, Administrator, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences, shall monitor public sector emergency response

training and planning for accidents and incidents involving hazardous materials.

"(B) TECHNICAL ASSISTANCE.—Taking into account the results of monitoring under subparagraph (A), the Secretary, Director, Administrator, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences shall each provide technical assistance to States and political subdivisions thereof and Indian tribes for carrying out emergency response training and planning for accidents and incidents involving hazardous materials and shall coordinate the provision of such technical assistance using the existing coordinating mechanisms of the national response team and, for radioactive materials, the Federal Radiological Preparedness Coordinating Committee.

"(8) PUBLICATION OF LIST OF TRAINING PROGRAMS.—The Secretary, in conjunction with the national response team, may publish a list of programs for training public sector employees to respond to accidents and incidents involving the transportation of hazardous materials which utilize one or more of the courses developed under this subsection.

"(9) MINIMIZATION OF DUPLICATION OF EFFORT.—The Secretary, Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, and the Director of the National Institute of Environmental Health Sciences, in conjunction with the heads of other Federal departments, agencies, and instrumentalities, shall review periodically all emergency response and preparedness training programs of the Federal department, agency, or instrumentality which such person heads for the purpose of minimizing duplication of effort and expense of such departments, agencies, and instrumentalities in carrying out such training programs and shall take such actions, including coordination of training programs, as may be necessary to minimize such duplication of effort and expense.

"(h) FEES FOR TRAINING AND PLANNING.—

Regulations

"(1) ESTABLISHMENT AND COLLECTION.—Not later than September 30, 1992, the Secretary shall establish and assess by regulation and collect an annual fee from each person who is required by or under section 106 to file a registration statement.

"(2) FACTORS FOR DETERMINING AMOUNT OF FEES.—Subject to paragraph (3), the amount of annual fees to be collected under this subsection shall be determined by the Secretary based on 1 or more of the following factors:

"(A) The gross revenues from transportation of hazardous materials.

"(B) The types of hazardous materials transported or caused to be transported.

"(C) The quantities of hazardous material transported or caused to be transported.

"(D) The number of shipments of hazardous materials.

"(E) The number of activities which the person carries out and for which filing of a registration statement is required by or under section 106.

"(F) The threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported.

"(G) The percentage of gross revenues which are derived from the transportation of hazardous materials.

"(H) The amount of funds which are to be made available to carry out this section and section 118.

"(I) Such other factors as the Secretary considers appropriate.

"(3) LIMITATIONS ON FEE AMOUNTS.—

"(A) MAXIMUM AND MINIMUM AMOUNT.—Subject to subparagraph (B), the amount of a fee which may be collected from a person under this section in a year may not be less than $250 and may not exceed $5,000.

"(B) ADJUSTMENTS.—The Secretary shall adjust the amount of fees being collected from persons under this section to reflect any unspent balances in the account established under paragraph (6); except that nothing in this subsection shall be construed as requiring the Secretary to refund any fees collected under this subsection.

"(4) TREATMENT OF FEES.—Fees collected under this subsection shall be in addition to any fees which the Secretary may collect under section 106.

"(5) TRANSFER TO SECRETARY OF TREASURY.—The Secretary shall transfer to the Secretary of the Treasury amounts collected under this subsection for deposit in the account established under paragraph (6).

"(6) USE OF AMOUNTS.—

"(A) ESTABLISHMENT OF ACCOUNT.—The Secretary of the Treasury shall establish in the Treasury an account into which the Secretary of the Treasury shall deposit amounts transferred by the Secretary of Transportation under paragraph (5).

"(B) PURPOSES.—Amounts in the account established under subparagraph (A) shall be available, without further appropriation—

"(i) for making grants under this section and section 118,

"(ii) for monitoring and providing technical assistance under subsection (g)(7), and

"(iii) for paying the administrative costs of carrying out this section and section 118, but not to exceed 10 percent of the amounts made available from the account in any fiscal year.

"(i) FUNDING.—

"(1) PLANNING GRANTS.—There shall be available to the Secretary for carrying out subsection (a), from amounts in the account established pursuant to subsection (h), $5,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(2) TRAINING GRANTS.—There shall be available to the Secretary for carrying out subsection (b), from amounts in the account established pursuant to subsection (h), $7,800,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(3) CURRICULUM.—

"(A) FROM GENERAL REVENUES.—There is authorized to be appropriated to the Secretary to carry out subsection (g) (other than paragraph (7)) $1,000,000 per fiscal year for each of fiscal years 1991 and 1992.

"(B) FROM FEE ACCOUNT.—There shall be available to the Secretary to carry out subsection (g) (other than paragraph

(7)), from amounts in the account established pursuant to subsection (h), $1,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(C) TRANSFERS.—The Secretary may transfer from amounts made available under this paragraph such amounts as may be necessary to the Director to carry out subsection (g)(6), relating to dissemination of the curriculum.

"(4) MONITORING AND TECHNICAL ASSISTANCE.—There shall be available for carrying out subsection (g)(7), from amounts in the account established pursuant to subsection (h)—

"(A) to each of the Secretary, Director, Administrator, and Secretary of Energy $750,000; and

"(B) to the Director of the National Institute of Environmental Health Sciences $200,000;

per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(5) AVAILABILITY.—Funds made available pursuant to this subsection shall remain available until expended.".

SEC. 18. HAZMAT EMPLOYEE TRAINING GRANT PROGRAM.

The Act (49 U.S.C. App. 1801-1813), as amended by section 17 of this Act, is further amended by adding at the end the following new section:

"SEC. 118. HAZMAT EMPLOYEE TRAINING GRANT PROGRAM. 49 USC app. 1816.

"(a) GRANT PURPOSES.—Grants for training and education of hazmat employees regarding the safe loading, unloading, handling, storage, and transportation of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials in order to meet the requirements issued under section 106(b) may be made under this section.

"(b) ADMINISTRATION.—Grants under this section shall be administered by the National Institute of Environmental Health Sciences in consultation with the Secretary, the Administrator, and the Secretary of Labor.

"(c) GRANT RECIPIENTS.—Grants under this section shall be awarded to nonprofit organizations which demonstrate expertise in implementing and operating training and education programs for hazmat employees and demonstrate the ability to reach and involve in training programs target populations of hazmat employees.

"(d) FUNDING.—There shall be available to the Director of the National Institute of Environmental Health Sciences to carry out this section, from amounts in the account established pursuant to section 117(h), $250,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.".

SEC. 19. RAILROAD TANK CARS.

The Act (49 U.S.C. App. 1801 et seq.), as amended by section 18 of this Act, is further amended by adding at the end the following new section:

"SEC. 119. RAILROAD TANK CARS. 49 USC app. 1817.

"(a) PROHIBITIONS FOR CERTAIN MATERIALS.—No railroad tank car constructed before January 1, 1971, may be used for the transportation in commerce of any class A or B explosives, any hazardous material which has been designated by the Secretary as toxic by

inhalation, or any other hazardous material the Secretary determines should be subject to such requirement, unless the air brake equipment support attachments of such tank car at a minimum comply with the standards for attachments set forth in part 179.100–16 and part 179.200–19 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(b) APPLICABILITY TO OTHER MATERIALS.—No railroad tank car constructed before January 1, 1971, may be used for the transportation in commerce of any hazardous material after July 1, 1991, unless the air brake equipment support attachments of such tank car comply with the standards for attachments set forth in part 179.100–16 and part 179.200–19 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.".

49 USC app. 1818.

SEC. 20. APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL CONTRACTORS.

The Act (49 U.S.C. App. 1801–1813), as amended by section 19 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 120. APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL CONTRACTORS.

"Any person who, under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal government, transports, or causes to be transported or shipped, a hazardous material or manufacturers, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation of hazardous materials shall be subject to and comply with all provisions of this title, all orders and regulations issued under this title, and all other substantive and procedural requirements of Federal, State, and local governments and Indian tribes (except any such requirements that have been preempted by this title or any other Federal law), in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce is subject to such provisions, orders, regulations, and requirements.".

49 USC app. 1817 note. Government contracts.

SEC. 21. RAILROAD TANK CAR STUDY.

(a) STUDY.—The Secretary of Transportation shall enter into a contract with an appropriate disinterested expert body for a study of—

(1) the railroad tank car design process, including specifications development, design approval, repair process approval, repair accountability, and the process by which designs and repairs are presented, weighted, and evaluated, and

(2) railroad tank car design criteria, including whether headshields should be installed on all tank cars which carry hazardous materials.

In carrying out the study described in paragraph (1), such expert body shall also make recommendations as to whether public safety considerations require greater control by and input from the Secretary with respect to the railroad tank car design process, especially in the early stages, and such other recommendations as such expert body considers appropriate.

(b) REPORT.—The Secretary of Transportation shall report the results of such study and such recommendations to the Congress within 1 year after the date of enactment of this Act.

SEC. 22. UNIFORMITY OF STATE MOTOR CARRIER REGISTRATION AND PERMITTING FORMS AND PROCEDURES.

The Act (49 U.S.C. App. 1801-1813), as amended by section 20 of this Act, is further amended by adding at the end the following new section:

"SEC. 121. UNIFORMITY OF STATE MOTOR CARRIER REGISTRATION AND PERMITTING FORMS AND PROCEDURES. 49 USC app. 1819.

"(a) WORKING GROUP.—As soon as practicable after the date of the enactment of this section, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the National Conference of State Legislatures, for the purpose of—

"(1) establishing uniform forms and procedures for States that register persons who transport, cause to be transported, or ship a hazardous material, by motor vehicle; and

"(2) determining whether or not to limit the filing of any State registration forms and collection of fees therefor to the State in which a person resides or has its principal place of business.

"(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with persons who are subject to the registration requirements described in subsection (a) in establishing uniform forms and procedures and making the determination described in subsection (a).

"(c) REPORT.—The working group established under this section shall transmit a final report to the Secretary and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 36 months after the date of the enactment of this section. The final report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a).

"(d) REGULATIONS.—

"(1) GENERAL RULE.—Subject to the provisions of this subsection, the Secretary shall issue regulations implementing those recommendations contained in the report transmitted to the Secretary under subsection (c) with which the Secretary agrees.

"(2) DEADLINE.—Regulations required to be issued by this subsection shall be issued by the later of the following dates:

"(A) The last day of the 3-year period beginning on the date the organizations referred to in subsection (a) transmit their final joint report to the Secretary.

"(B) The last day of the 90-day period beginning on the date on which 26 or more States adopt all of such recommendations.

"(3) NO LIMIT OF AMOUNT OF FEES.—Regulations issued under this section shall not define or limit the amounts of any fees which may be imposed or collected by any State.

Effective date.

"(e) UNIFORMITY.—A regulation issued pursuant to this section shall take effect 1 year after the date of its issuance; except that the Secretary may extend such 1-year period for an additional 1-year period for good cause. After the effective date of such regulation, no State shall establish, maintain, or enforce any requirement which relates to the subject matter of such regulation unless such requirement is the same as such regulation.

"(f) IMPLEMENTATION EFFICIENCY.—The Secretary, in consultation with the working group established under this section, shall develop a procedure to eliminate any differences in State implementation of regulations issued pursuant to this section.

"(g) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

"(h) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated for carrying out this section $400,000 per fiscal year for each of fiscal years 1991, 1992, and 1993. Such sums shall remain available until expended.".

SEC. 23. FINANCIAL RESPONSIBILITY.

Section 30(b)(2) of the Motor Carrier Act of 1980 (49 U.S.C. 10927 note) is amended to read as follows:

"(2) HAZARDOUS MATERIALS TRANSPORTATION.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

"(i) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

"(ii) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

"(iii) large quantities of radioactive materials,

shall not be less than $5,000,000.

"(B) PHASE-IN REDUCTION.—The Secretary, by regulation, may reduce the $5,000,000 amount under subparagraph (A) (but not to an amount less than $1,000,000) for any class of vehicles or operations for the 3½-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

"(C) TERRITORY REDUCTION.—The Secretary, by regulation, may reduce the $5,000,000 amount under subparagraph (A) (but not to an amount less than $1,000,000) for transportation described in subparagraph (A) in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands if the chief executive officer of such territory requests the reduction and if the reduction will not adversely affect public safety, will prevent a serious disruption in transportation service, and insurance at the $5,000,000 level is not readily available.".

SEC. 24. FEDERALLY LEASED COMMERCIAL MOTOR VEHICLES.

Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2509) is amended by adding at the end the following new subsection:

"(g) FEDERALLY LEASED COMMERCIAL MOTOR VEHICLES.—Any State which receives Federal financial assistance under section 402 of the Surface Transportation Assistance Act of 1982 in a fiscal year may apply and enforce in such fiscal year any regulations pertaining to commercial motor vehicle safety adopted by such State with respect to commercial motor vehicles and operators leased to the United States.".

SEC. 25. IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS.

Motor vehicles. Telecommunications. 49 USC app. 1804 note.

(a) RULEMAKING PROCEEDING.—

(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act.

(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of placarding to be considered under the rulemaking proceeding initiated under this subsection shall include methods to make such placards more visible, methods to reduce the number of improper and missing placards, alternative methods of marking vehicles for the purpose of identifying the hazardous materials being transported, methods of modifying the composition of placards in order to ensure their resistance to flammability, methods of improving the coding system used with respect to such placards, identification of appropriate emergency response procedures through symbols on placards, and whether or not telephone numbers of any continually monitored telephone systems which are established under the Hazardous Materials Transportation Act are displayed on vehicles transporting hazardous materials.

(4) COMPLETION OF RULEMAKING PROCEEDING WITH RESPECT TO REPORTING SYSTEM AND DATA CENTER.—Not later than 19 months after the date of the enactment of this Act, the Secretary of Transportation shall complete the rulemaking proceeding initiated with respect to the central reporting system and computerized telecommunications data center described in subsection (b).

(5) FINAL RULE WITH RESPECT TO PLACARDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a final rule relating to improving the current system for placarding vehicles transporting hazardous materials.

(b) CENTRAL REPORTING SYSTEM AND COMPUTERIZED TELECOMMUNICATIONS DATA CENTER STUDY.—

(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials, that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

(2) CONSULTATION AND REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this section, the Secretary of Transportation shall request the National Academy of Sciences—

(A) to consult with the Department of Transportation, the Department of Health and Human Services, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Occupational Safety and Health Administration, shippers and carriers of hazardous materials, manufacturers of computerized telecommunications systems, State and local emergency preparedness organizations (including law enforcement and firefighting organizations), and appropriate international organizations in conducting such study; and

(B) to submit, not later than 19 months after the date of the enactment of this Act, to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives a report on the results of such study.

Such report shall include recommendations of the National Academy of Sciences with respect to establishment and operation of a central reporting system and computerized telecommunications data center described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized under section 115 of the Hazardous Materials Transportation Act, there is authorized to be appropriated to the Secretary of Transportation to carry out this subsection $350,000.

(c) ADDITIONAL PURPOSES OF RULEMAKING PROCEEDING AND STUDY.—Additional purposes of the rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center described in subsection (b) and the study conducted under subsection (b) are—

(1) to determine whether such a system and center should be established and operated by the United States Government or by a private entity, either on its own initiative or under contract with the United States;

(2) to determine, on an annualized basis, the estimated cost for establishing, operating, and maintaining such a system and center and for carrier and shipper compliance with such a system;

(3) to determine methods for financing the cost of establishing, operating, and maintaining such a system and center;

(4) to determine projected safety benefits of establishing and operating such a system and center;

(5) to determine whether or not shippers, carriers, and handlers of hazardous materials, in addition to law enforcement officials and persons responsible for responding to emergencies involving hazardous materials, should have access to such system for obtaining information concerning shipments of hazardous materials and technical and other information and advice with respect to such emergencies;

(6) to determine methods for ensuring the security of the information and data stored in such a system;

(7) to determine types of hazardous materials and types of shipments for which information and data should be stored in such a system;

(8) to determine the degree of liability of the operator of such a system and center for providing incorrect, false, or misleading information;

(9) to determine deadlines by which shippers, carriers, and handlers of hazardous materials should be required to submit information to the operator of such a system and center and minimum standards relating to the form and contents of such information;

(10) to determine measures (including the imposition of civil and criminal penalties) for ensuring compliance with the deadlines and standards referred to in paragraph (9); and

(11) to determine methods for accessing such a system through mobile satellite service or other technologies having the capability to provide 2-way voice, data, or facsimile services.

(d) REVIEW AND REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 25 months after the date of the enactment of this Act, the Secretary of Transportation shall review the report of the National Academy of Sciences submitted under subsection (b) and the results of rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center and shall prepare and submit to Congress a report summarizing the report of the National Academy of Sciences and the results of such rulemaking proceeding, together with the Secretary's recommendations concerning the establishment and operation of such a system and center and the Secretary's recommendations concerning implementation of the recommendations contained in the report of the National Academy of Sciences.

(2) WEIGHT TO BE GIVEN TO RECOMMENDATIONS OF NAS.—In conducting the review and preparing the report under this subsection, the Secretary shall give substantial weight to the recommendations contained in the report of the National Academy of Sciences submitted under subsection (b).

(3) INCLUSION OF REASONS FOR NOT FOLLOWING RECOMMENDATIONS.—If the Secretary does not include in the report prepared for submission to Congress under this subsection a recommendation for implementation of a recommendation contained in the report of the National Academy of Sciences submitted under subsection (b), the Secretary shall include in the report to Congress under this subsection the Secretary's

reasons for not recommending implementation of the recommendation of the National Academy of Sciences.

49 USC app. 1804 note.

SEC. 26. CONTINUALLY MONITORED TELEPHONE SYSTEMS.

(a) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials. Additional objectives of such proceeding shall be to determine which hazardous materials, if any, should be covered by such a requirement and which segments of such industry (including persons who own and operate motor vehicles, trains, vessels, aircraft, and in-transit storage facilities) should be covered by such a requirement.

(b) COMPLETION OF PROCEEDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall complete the proceeding under this section and may issue a final rule relating to establishment of continually monitored telephone systems described in subsection (a).

SEC. 27. SHIPPER RESPONSIBILITY REPORT.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on—

(1) the safety benefits of a law which provides that if a person causes a hazardous material to be transported in bulk in commerce by a motor carrier, which is involved in a hazardous material incident and which has an unsatisfactory safety rating issued by the Secretary or which has a conditional safety rating issued by the Secretary which has been in effect for a period of more than 12 months, such person shall be liable for at least 50 percent of the costs, damages, and attorney's fees assessed against the motor carrier for any hazardous material incident involving such transportation;

(2) such other systems as the Secretary of Transportation may determine would assure responsible actions by a person who causes the transportation of hazardous material in bulk in commerce; and

(3) the safety benefits of a law which provides that the liability of the person or persons who caused such a shipment of hazardous materials may not be transferred by indemnification, hold harmless, or similar agreements.

SEC. 28. STATE PARTICIPATION IN INVESTIGATIONS AND SURVEILLANCE.

(a) AMENDMENT OF SECTION 206(a) OF FRSA.—Section 206(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(a)) is amended—

(1) by inserting "related to railroad safety" after "standard prescribed";

(2) by striking "under this title" the first place it appears;

(3) by striking "established under this title" in paragraph (2); and

(4) by striking "prescribed by the Secretary under section 202(a) of this title" and inserting "relating to railroad safety prescribed by the Secretary".

(b) AMENDMENT OF SECTION 206(b) OF FRSA.—Section 206(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(b)) is amended by striking "prescribed by him under section 202(a) of this title" and inserting "relating to railroad safety prescribed by the Secretary".

(c) AMENDMENT OF SECTION 206(f) OF FRSA.—Section 206(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(f)) is amended by striking "under this title".

(d) AMENDMENT TO SECTION 206 OF FRSA.—Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end the following:

"(h) There is authorized to be appropriated for carrying out this section $5,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993.".

(e) AMENDMENT OF SECTION 207(a)(1) OF FRSA.—Section 207(a)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436(a)(1)) is amended—

(1) by striking "under section 209 of this title with respect"; and

(2) by striking "issued under this title or under any law transferred by section 6(e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act".

(f) AMENDMENT OF SECTION 210(a) OF FRSA.—Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by striking "this title or to enforce rules, regulations, orders, or standards established under this title" and inserting "or to enforce rules, regulations, orders, or standards relating to railroad safety".

SEC. 29. RETENTION OF MARKINGS AND PLACARDS.

29 USC 655 note.

Not later than 18 months after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom.

SEC. 30. RELATIONSHIP TO FEDERAL RAILROAD SAFETY ACT OF 1970.

45 USC 434 note.

Nothing in this Act, including the amendments made by this Act, shall be construed to alter, amend, modify, or otherwise affect the scope of section 205 of the Federal Railroad Safety Act of 1970.

SEC. 31. EFFECTIVE DATE.

49 USC app. 1801 note.

(a) GENERAL RULE.—Except as provided in this Act, this Act (including the amendments made by this Act) shall take effect on the date of the enactment of this Act.

(b) CONTINUATION OF EXISTING REGULATIONS.—Any regulation or ruling issued before the date of the enactment of this Act pursuant to the Hazardous Materials Transportation Act and any authority granted under such a regulation shall continue in effect according to

its terms until repealed, terminated, amended, or modified by the Secretary of Transportation or a court of competent jurisdiction.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2936 (H.R. 3520):

HOUSE REPORTS: No. 101-449 (Comm. on Commerce, Science, and Transportation).

SENATE REPORTS: No. 101-444, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Public Works and Transportation), both accompanying H.R. 3520.

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 23, considered and passed Senate.
Oct. 25, considered and passed House, amended.
Oct. 26, Senate concurred in House amendment.

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